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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/692,637

10/24/2003

Michael Liebler-Ranzus

MOH-P010111

8633

24131 7590 01/28/2009  
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EXAMINER

PALABRICA, RICARDO J

ART UNIT

PAPER NUMBER

3663

MAIL DATE

DELIVERY MODE

01/28/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10692637	10/24/03	LIEBLER-RANZUS, MICHAEL	MOH-P010111

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**EXAMINER**

Rick Palabrica

ART UNIT	PAPER
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3663	20090123
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DATE MAILED:

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**Commissioner for Patents**

This letter is in response to the 1/22/09 telephone call from applicant's representative requesting further clarification as to how applied art, Nylund (U.S. 5,080,858), reads on applicant's claim language, "gills".

Please refer, e.g., to Fig. 8, showing the relative positioning of skirt 12 relative to channel wall 6. "Gills" reads on portions of the skirt adjacent to channel wall 6, e.g., the part between the two deflection fins 14. These gills are formed on an outer side of spacer 8 and projects outward, i.e., away from spacer 8 in the vertical direction. Note that there is not one, unique "outer side" of said outer webs, and the outer edge of spacer 8 is an outer side. The Federal Circuit could not have been clearer on this matter when it cautioned:

"This court has repeatedly emphasized that an indefinite article 'a' or 'an' in patent parlance carries the meaning of 'one or more' in open-ended claims containing the transitional phrase, 'comprising,'" KCJ Corp v. Kinetic Concepts, Inc., 223 F.3d 1351, 1356 (Fed. Cir. 2000).

Also, applicant has not defined a specific reference for the term, "outward to a given extent", and absent such definition, the examiner interprets the term broadly, and the gills of Nylund being disposed downwardly and away from spacer 8 meets the term definition.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rick Palabrica whose telephone number is 571-272-6880. The examiner can normally be reached on 6:00-4:30, Mon-Thurs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Keith can be reached on 571-272-6878. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

January 23, 2009

/Rick Palabrica/  
Primary Examiner, Art Unit 3663

